

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
CURTIS NICHOLS, et al.,

Plaintiffs,

-against-

N.Y.C.D.O.C.S. JOSEPH PONTE, et al.,

Defendants.

ANALISA TORRES, District Judge:

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17 Civ. 2976 (AT) (GWG)

**ORDER ADOPTING
REPORT AND
RECOMMENDATION**

On April 24, 2017, Plaintiffs *pro se*, who are inmates at the Anna M. Kross Correctional Facility, filed this action pursuant to 28 U.S.C. § 1983 alleging that corrections officers used excessive force when spraying a chemical agent. ECF No. 2. On June 30, 2017, the Court dismissed nine of the seventeen plaintiffs without prejudice for failing to comply with an earlier order directing them to submit IFP applications, prisoner authorizations, declarations, and updated addresses. ECF No. 28. Following this order, therefore, there were eight plaintiffs in the case: Curtis Nichols, Wesley Johnson, Angel Abrams, Alfonso Adjei, Leonard Freeman, Larry McNair, Raemen Heck, and Brandon Robertson. On August 28, 2017, the Court referred the matter to the Honorable Gabriel W. Gorenstein for general pretrial matters. ECF No. 37. Since that time, the Clerk has mailed a number of orders to the plaintiffs in this case. Mailings that were sent to the addresses that certain Plaintiffs provided have been repeatedly returned as undeliverable.

After careful consideration, on March 4, 2019, Judge Gorenstein issued a Report and Recommendation (“R&R”), recommending that the action be dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(b) as to Plaintiffs Curtis Nichols, Wesley Johnson, Angel Abrams, Alfonso Adjei, and Leonard Freeman. ECF No. 71. Despite notification of the right to object to the R&R, no objections were filed, and the time to do so has passed. *See* Fed. R. Civ. P. 72(b)(2). When no objection is made, the Court reviews the R&R for clear error. *Santiago v. Colvin*, 12 Civ. 7052, 2014 WL 1092967, at *1 (S.D.N.Y. Mar. 17, 2014). The Court finds no clear error. The Court, therefore, ADOPTS Judge Gorenstein’s R&R in its entirety.

Accordingly, this case is DISMISSED without prejudice pursuant to Rule 41(b) as to Plaintiffs Curtis Nichols, Wesley Johnson, Angel Abrams, Alfonso Adjei, and Leonard Freeman. The Clerk of Court is directed to terminate these parties and to send a copy of this order to the remaining Plaintiffs (Larry McNair, Brandon Robertson, and Raemen Heck) *pro se*.

SO ORDERED.

Dated: March 26, 2019
New York, New York



ANALISA TORRES
United States District Judge